

**IN THE UNITED STATES DISTRICT COURT
DISTRICT OF NEW MEXICO**

GEORGE VIGIL,

Plaintiff,

vs.

Cause No.: 20-CV-00740 KG/JFR

**JOSEPH AQUINO AND
RIO ARRIBA SHERIFF'S OFFICE**

Defendants.

**FIRST AMENDED
JOINT STATUS REPORT AND PROVISIONAL DISCOVERY PLAN**

Pursuant to Fed. R. Civ. P. 26(f), a telephonic meet and confer was held on October 22, 2020, and was attended by:

1. George Vigil
Post Office Box 494
Chimayo, NM 87522
(505) 369-2402
Kinggeorge240@gmail.com
Plaintiff Pro Se

2. Ms. Gabriela M. Delgadillo, Esq.
Brennan & Sullivan, P.A.
128 E. DeVargas
Santa Fe, NM 87501
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gabriela@brennsull.com
Attorneys for Defendant Rio Arriba Sheriff's Office

Please note, this JSR/PDP was emailed to Plaintiff George Vigil on October 28, 2020 requesting him to insert his portions and return to our office for filing. As of the time of filing, no response has been received by Plaintiff Pro Se. Also, it is counsel for Defendant Rio Arriba

Sheriff's Office belief that Defendant Joseph Aquino has not yet been served the Complaint. Therefore, this JSR is filed without Plaintiff's or Defendant Joseph Aquino's portions.

NATURE OF THE CASE

Plaintiff has filed a Complaint against Defendants, alleging tort claims under the New Mexico Tort Claims Act and claims for constitutional violations under 42 U.S.C. § 1983. Specifically, Plaintiff alleges against Defendant Joseph Aquino excessive force under § 1983; battery, assault, false arrest, and false imprisonment under the NMTCA; and, illegal seizure and arrest in violation of the Fourth Amendment. Plaintiff also alleges against Defendant, Rio Arriba Sheriff's Office (RASO), negligent hiring and supervision and unofficial policy custom and practice in violation of § 1983. Plaintiff also alleges punitive damages against all Defendants. RASO denies Plaintiff's claims of liability and damages.

AMENDMENTS TO PLEADINGS AND JOINDER OF PARTIES

At this time, Plaintiff does/does not intend to Amend Plaintiff's Complaint or join additional parties.

Plaintiff should be allowed until December 15, 2020 to move to amend the pleadings and to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

Defendants should be allowed until January 15, 2020, to move to amend the pleadings and to join additional parties in compliance with the requirements of Fed. R. Civ. P. 15(a).

STIPULATIONS

The parties hereto stipulate and agree that venue is properly laid in this District and that the United States District Court for the District of New Mexico has jurisdiction of the parties and

the subject matter. Furthermore, the parties stipulate and agree that the law governing this case is the New Mexico Tort Claims Act, NMSA § 41-1-1 *et seq.*, and 42 U.S.C. 1983.

PLAINTIFF'S CONTENTIONS

DEFENDANTS' CONTENTIONS

Defendant Joseph Aquino's Contentions:

Defendant Rio Arriba Sheriff's Office Contentions:

Defendant RASO denies Plaintiff's contentions. At all times, Defendant acted in good faith and in a reasonable manner and did not cause any injury to Plaintiff. Defendant contends that it exercised reasonable care at all times in the handling of Plaintiff. Defendant also relies upon a number of affirmative defenses, as set forth in its Answer to Plaintiff's Complaint, in particular, but not limited to, the fact that, as a governmental entity, Defendant is entitled to the protection of all of the provisions of the New Mexico Tort Claims Act. Defendant also cannot be held liable as a government entity unless there is an underlying constitutional violation.

PROVISIONAL DISCOVERY PLAN

The parties jointly propose to the Court the following discovery plan: (*Use separate paragraphs or subparagraphs as necessary if parties disagree.*)

WITNESSES

Plaintiff's Witnesses:

Defendant Joseph Aquino's Witnesses:

Defendant Rio Arriba Sheriff's Office Witnesses:

1. Officer Joseph Aquino
c/o Brennan & Sullivan, P.A
128 East DeVargas St.
Santa Fe, NM 87505
505-995-8514
2. Plaintiff, George Vigil
3. Sheriff James Lujan
c/o Brennan & Sullivan, P.A
128 East DeVargas St.
Santa Fe, NM 87505
505-995-8514
4. Any employees of Family Dollar Store in Chimayo, NM who witnessed the alleged incident, to be identified through discovery.
5. Any individuals with knowledge of the allegations in the Complaint, to be identified through discovery.
6. Any witness identified by Plaintiff or any other party.
7. Any treating physicians or mental health specialists that treated Mr. Vigil, as identified during discovery.
8. Any witness identified during discovery.
9. Any witness necessary to authenticate documents.
10. Any witness necessary for rebuttal.

EXHIBITS

Plaintiff's Exhibits:

Defendant Joseph Aquino's Exhibits:

Defendant Rio Arriba Sheriff's Office Exhibits:

1. All police reports prepared in relation to this matter.
2. RASO Police Department policies and procedures.
3. Plaintiff's medical records, if any.
4. Any IPRA requests submitted by Plaintiff to RASO or to Rio Arriba County.
5. All responsive materials provided to Plaintiff by Defendants in response to his IPRA requests.
6. Plaintiff's written discovery answers, production, and responses.
7. Any exhibit to any deposition in this matter.
8. Any report by any expert in this matter.
9. Any documents produced by Plaintiff or any other party.
10. Any exhibits identified by Plaintiff or any other party.
11. Any exhibit revealed during discovery.
12. Any documents necessary for impeachment, rebuttal or foundation.

EXPERTS

Plaintiff's Experts:

Defendant Joseph Aquino's Experts:

Defendant Rio Arriba Sheriff's Office's Experts:

Defendant may or may not retain a police procedures expert in this matter.

Discovery will be needed on the following subjects: The facts alleged in Plaintiff's Complaint and facts giving rise to Plaintiff's damages, if any.

Maximum of 25 interrogatories by each party to any other party. (Responses due 30 days after service).

Maximum of 25 requests for production of documents by each party to any other party. (Responses due 30 days after service). Maximum of 25 requests for admission by each party to any other party. (Response due 30 days after service).

Maximum of 10 depositions by Plaintiff and 10 by each of the Defendants.

Each deposition (other than of parties) limited to maximum of 4 hours on the record unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due:

from Plaintiff by June 15, 2021;

from Defendants by July 15, 2021.

Supplementation under Rule 26(e) due 30 days before close of discovery.

All discovery commenced in time to be complete by September 20, 2021; Pretrial motions and Daubert motions, other than discovery, due by November 20, 2021.

Other Items:

None.

PRETRIAL MOTIONS

Plaintiff intends to file:

Defendant Joseph Aquino intends to file:

Defendant Rio Arriba Sheriff's Office intends to file: Motion for Summary Judgment and/r Motion to Dismiss; motions in limine, including any other necessary discovery and pretrial motions.

ESTIMATED TRIAL TIME

The parties estimate trial will require 5 days.

 This is a non-jury case.

X This is a jury case.

The parties request a pretrial conference 30 days before scheduled trial date.

SETTLEMENT

The possibility of settlement in this case cannot be evaluated prior to concluding discovery.

The parties request a settlement conference after the discovery deadline.

EXCEPTIONS

Plaintiff Pro Se portions were not received prior to filing of this JSR/PDP. Also, it is our knowledge and belief that Defendant Joseph Aquino has not yet been served the Complaint.

Respectfully submitted

BRENNAN & SULLIVAN, P.A.

By: /s/ Gabriela M. Delgadillo
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Attorneys for Defendant Rio Arriba Sheriff's Office

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 2nd day of November 2020, I filed the foregoing electronically through the CM/ECF system, and served the same via email and to the following:

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Kinggeorge240@gmail.com
Pro Se Plaintiff

By: /s/ Gabriela M. Delgadillo
Gabriela M. Delgadillo